

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Dickson Nyesuah

**DEFENDANTS**

City of Philadelphia (Department of Human Services)

(b) County of Residence of First Listed Plaintiff Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Frederick M. Walton, Jr.  
1800 JFK Blvd., Suite 1111 Philadelphia, PA 19103 (215)563-4470

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Title VII of the Civil Rights Act of 1964 (Title VII) 29 U.S.C. 794

Brief description of cause:

Employment Discrimination

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes    ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/05/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #    AMOUNT    APPLYING IFP    JUDGE    MAG. JUDGE

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 7732 Frontenac Street Philadelphia, PA 19111

Address of Defendant: 1515 Arch Street Philadelphia, PA 19102

Place of Accident, Incident or Transaction: City of Philadelphia ( Department of Human Services)

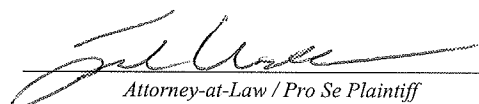
## RELATED CASE, IF ANY:

Case Number: 2:19-cv-01203 Judge: Mark A. Kearney Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |   |  |
|--|---|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☒ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06/05/2019


Attorney-at-Law / Pro Se Plaintiff

40755

Attorney I.D. # (if applicable)

CIVIL: (Place a ☒ in one category only)

## A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
- (Please specify): \_\_\_\_\_

## B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases
- (Please specify): \_\_\_\_\_

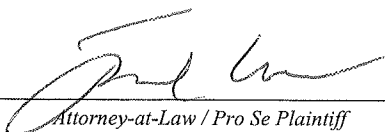
## ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Frederick M. Walton, Jr., counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 06/05/2019


Attorney-at-Law / Pro Se Plaintiff

40755

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

*Dickson Nyesuah*  
:  
*City of Philadelphia*  
:  
*(Department of Human Services)*

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

*6/5/2019*  
Date

*215-562-4479*

Telephone

*[Signature]*  
Attorney-at-law

*215-568-*

FAX Number

*Dickson Nyesuah*

Attorney for

*fwalton@harpenn.com*

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Dickson Nyesuah  
7732 Frontenac Street  
Philadelphia, PA 19111

Plaintiff

vs.

City of Philadelphia  
(Department of Human Services)  
1515 Arch Street  
Philadelphia, PA 19102

Defendant

**COMPLAINT**

**I. PRELIMINARY STATEMENT:**

1. This is an action for an award of damages, declaratory and injunctive relief, attorneys' fees and other relief on behalf of Plaintiff, Dickson Nyesuah. Plaintiff is a former employee of Defendant, City of Philadelphia, who has been harmed by the Defendant's discriminatory employment practices.

2. This action arises under Title VII of the Civil Rights Act of 1964 ("Title VII"), 29 U.S.C. §794, *et seq.* and the Pennsylvania Human Relations Act ("PHRA"), 43 P.S. §951 *et seq.*

**II. JURISDICTION AND VENUE**

3. The jurisdiction of this Court is invoked, and venue is proper in this district, pursuant to 28 U.S.C. §1391 as Plaintiff's claims are substantively based on the Title VII Act.

4. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1367 to consider Plaintiff Nyesuah's claims arising under the PHRA.

5. All conditions precedent to the institution of this suit have been fulfilled, such as exhausting Administrative remedies and obtaining a "Notice of Suit Rights" letter from the US Equal Employment Opportunity Commission ("EEOC"). Plaintiff Nyesuah has satisfied all jurisdictional prerequisites to the maintenance of this action.

### **III. PARTIES**

6. The Plaintiff herein is:

Dickson Nyesuah  
7732 Frontenac Street  
Philadelphia, PA 19111

7. The Defendant herein is:

City of Philadelphia  
(Department of Human Services)  
1515 Arch Street  
Philadelphia, PA 19102

It is further averred Plaintiff has worked for Defendant, which is a municipality that comprises many agency arms, one of which is the Department of Human Resources located at 1515 Arch Street, 8<sup>th</sup> Floor, and Philadelphia, PA.

### **IV. ADDITIONAL UNDERLYING FACTS**

8. The Defendant, on information and belief, employed 15 or more persons when the unlawful conduct alleged in this Complaint occurred.

9. Plaintiff had been employed at the Department of Human Resources since August 14, 2006.

10. Plaintiff was employed by Defendant as Social Work Trainee, and he rose through the ranks to become a Social Worker II.

11. At all times relevant hereto, the Defendant was acting through its agents, servants and employees, who were acting within the scope of their authority, course of their employment and under the direct control of the Defendant.

12. At all times material herein, Defendant is and has been a “person” and “employer” as defined under the Title VII and the PHRA, and is accordingly subject to the provisions of each Act.

**V. STATEMENT OF CLAIMS**

13. Paragraphs 1 through 12 are incorporated by reference, as if set forth at length.

14. The Plaintiff alleges that prior to and continuing until on or about March 18, 2018, the Defendant, through its agents, servants and employees, subjected him to discrimination violative of Title VII and the PHRA ultimately resulting in his termination on March 18, 2018. The facts in support of these allegations include, but are not limited to, the following:

**VI. UNDERLYING FACTS**

15. Plaintiff alleges that Defendant, through its agents, servants, and employees, subjected him to discrimination and a hostile work environment on the basis of his race (African- American), color, and national origin (Liberia, West Africa) Plaintiff further believes and avers that the Defendant terminated his employment in retaliatory fashion for his objecting to said conduct and engaging in protected activity. These actions constitute violations of Title VII of the Civil Rights Act of 1964 (“Title VII”) and the Pennsylvania Human Relations Act (“PHRA”).

16. Plaintiff began employment with Respondent City of Philadelphia Department of Human Services (“Respondent” or “DHS”) on or about August 14, 2006 in the role of Social Worker trainee and he rose through the ranks until becoming a Social Worker II.

17. During his eleven (11) years of employment with Respondent, Plaintiff performed his job functions in a dutiful and competent manner and at all times maintained at least a satisfactory performance level.

18. Indeed, Plaintiff’s work ethic and productivity have been consistently good and he received positive annual performance evaluations each year with ratings of either superior or outstanding.

19. The Intake and Investigations division of DHS, in which Plaintiff worked, is comprised of several “units”. They are each made up of one Supervisor and around three or four Social Workers.

20. Initially, Plaintiff was assigned to Unit #73 under supervisor Angela Simes (“Simes”) (Caucasian).

21. Within Unit #73 supervised by Simes, the standard practice was for employees to submit their CPS and GPS outcomes and determinations without the safety assessment work sheets and structure progress notes necessarily being entered into the system as technically required by agency policy.

22. DHS completed a review and audit on or about April 7, 2016 and Simes was not disciplined by either Loretta Weston (“Weston”) (“African-American”), Administrator, or Gina McCone (“McCone”) (“Caucasian-American”), Intake Director, for these practices occurring under her oversight.

23. In or around the Spring of 2016, McCone created Unit #53.



24. McCone, a Caucasian American, deliberately and selectively placed only employees of African descent under supervisor Onye Osuji (“Osuji”) (Nigeria, West Africa) into Unit #53.

25. Besides Plaintiff, Unit #53 included Robyn Kunzekweguta (“Kunzekweguta”) (Zimbabwe, Southern Africa) and Charles Coleman (Liberia, West Africa).

26. In crafting Unit #53, McCone racially and discriminatorily segregated Plaintiff and his coworkers due to their African ethnicity.

27. Furthermore, on several occasions, McCone and staff in other units and divisions derogatorily referred to Unit #53 as the “African Unit”.

28. The unit moreover became a dumping ground of sorts for the cases of workers who were either leaving DHS or transferring to another unit or section.

29. By way of example, the cases of Intake workers Shannon Jones, Aliyah Williams, and Malikah Pierce were all pushed onto Unit #53, when those employees left or transferred.

30. On or about April 27, 2017, Plaintiff received the Intake Region Honors Certificate for his hard work, dedication, and willingness to assist others in his role.

31. Despite Plaintiff’s successful performance of his job functions, he and his fellow members of Unit #53 continued to encounter antagonism with respect to their national origin.

32. On or about September 18, 2017, McCone met with Unit #53 and told them that while they were doing a fine job and were working hard according to Administrator Weston, she needed to remove Osuji to another unit as Supervisor in relation to Osuji having made an internal complaint of hostile work environment.



33. When Plaintiff and the other Social Workers of Unit #53 expressed concern and confusion over the decision, McCone became agitated and stated her decision was final whether they liked it or not.

34. The following day on or about September 19, 2017, the members of Unit #53 consulted with their DC 47 Union Representative Cherone Hall (“Hall”) to discuss the actions being taken by McCone and grieve their concerns about race and national origin related bias.

35. Later that day, Hall met with McCone and relayed the unit members’ concerns to her. Following this meeting and unhappy with the fact that her subordinates submitted their grievances about her to the union, McCone created a retaliatory work environment through actions such as refusing to talk to the members of Unit #53, ignoring their inquiries, and exhibiting anger toward them.

36. Also on or about September 19, 2017, Plaintiff observed a Payroll staffer bringing McCone the overtime slips for Unit #53.

37. When Plaintiff asked the staffer what was going on, she told him that Director McCone had asked to see the entire unit’s overtime slips.

38. Soon after the filing of the grievance with the DC 47 Union Representative, on or about October 16, 2017, McCone requested to meet with Plaintiff and his Union Representative Hall.

39. During this meeting, McCone stated that she completed a caseload audit and overtime slips review, observed some issues that discussed with Upper Management and had to dissolve Unit #53.

40. On this day, McCone requested that Plaintiff turn over all of his case files and records and DHS disabled all of his work issued devices.

41. Michelle Sensky (“Sensky”), Human Resources Staff Administrator, reassigned Plaintiff to the 7<sup>th</sup> floor case record room as his temporary reassignment pending the outcome of a disciplinary hearing.

42. Plaintiff believes and avers that McCone instituted an audit of Unit #53 in retaliation for the union grievance and as a means of national origin based discrimination.

43. As a result, Plaintiff filed an EEOC Charge (EEOC No. 530-2018-00278) on or about October 25, 2017, detailing most of the above and alleging race and national origin discrimination and retaliation. Around this time, Osuji filed an EEOC Charge as well.

44. On or about October 27, 2017, mere days after Plaintiff’s filing of an EEOC Charge, McCone officially served him with an Employee Violation Report (“EVR”). The EVR put forth charges of falsification of visits, falsification of overtime, and poor work performance, but he denied the allegations and thus neglected to sign.

45. This same day, Plaintiff was walking by and overheard McCone bragging to her secretary, “I will get rid of these African people one by one in this section” and laughing about it.

46. DHS held a preliminary hearing for Plaintiff on or about November 14, 2017 and then a formal discipline hearing before a panel on or about January 24, 2018.

47. At this hearing, Plaintiff presented testimony and evidence that he conducted visits in each of his cases as policy required and that there was never any falsification of overtime or visitations. Concerning the allegation of poor work

performance, Plaintiff explained that was overwhelmed with his own cases because he was shouldering the burden of other employees' cases as well.

48. Plaintiff noted that due to the overload of cases, the delay of inputting notes into the online system was agency wide (visits were supposed to be input into the system within six day period).

49. On or about January 24, 2018, the hearing panel concluded their deliberation and recommended fifteen (15) days' suspension for Plaintiff.

50. However, on or about March 23, 2018 there was a meeting to review the hearing panel's decision in the matter.

51. Ultimately, the Commissioner decided to approve the panel's recommendation to sustain charges and enact a suspension, but the Commissioner went further and amended the panel recommendation to thirty (30) days' suspension with the intent to dismiss.

52. DHS Management told Plaintiff that March 23, 2018 was to be his last day of work and he had to turn over his ID cards, badge, and agency equipment.

53. Plaintiff believes and avers that Respondent discriminated against him and his Unit #53 coworkers on account of their race and ethnicity, despite their good performance and successful tenure at DHS.

54. He further believes and avers that Respondent and McCone targeted him and Unit #53 for audit because they had engaged in protected activity and filed EEOC Charges and/ or supported each other's complaints and EEOC Charges.

55. Upon information and belief, no other intake unit in the agency got audited around this time.

56. Respondent subjected Plaintiff to a pattern of retaliatory animus and antagonism which culminated in the termination of his employment.

57. Respondent did not give Plaintiff any prior indication that his work performance was poor nor did it follow the progressive discipline policy as required by the agency.

58. Plaintiff thus believes and avers that the reasoning behind his suspension and subsequent termination was pretextual.

59. Furthermore, Plaintiff has since learned that not long after his termination, DHS transferred McCone to the Adoption section.

**COUNT I**  
**DISCRIMINATORY TREATMENT – ARISING UNDER TITLE VII OF THE CIVIL**  
**RIGHTS ACT OF 1964 BASED ON NATIONAL ORIGIN AND RACE**  
**DICKSON NYESUAH vs. CITY OF PHILADELPHIA**

60. Paragraphs 1- 59 are incorporated herein as if set forth at length.

61. Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex or national origin. The Act also makes it illegal to discriminate based upon retaliation against an individual who complains about discriminatory conduct. Plaintiff alleges violations based on race as set forth below;

62. Plaintiff began employment with Defendant City of Philadelphia Department of Human Services (“Respondent” or “DHS”) on or about August 14, 2006 in the role of Social Worker Trainee, and rose through the ranks until becoming a Social Worker II.

63. During his eleven (11) years of employment with Defendant, Plaintiff performed his job functions in a dutiful and competent manner and at all times maintained at least a satisfactory performance level.

64. The Intake and Investigations division of DHS in which Plaintiff last worked is comprised of several "units". They are each consisting of one Supervisor and around three or four Social Workers.

65. In or around 2016, Intake Director Gina McCone ("McCone") (Caucasian, American) forcibly transferred Dickson Nyesuah ("Nyesuah") (Liberia, West Africa), Social Worker II, to Plaintiff's unit, even though Nyesuah did not wish to be transferred and Plaintiff was not consulted about the decision.

66. Shortly thereafter, McCone also transferred Charles Coleman ("Coleman") (Liberia, West Africa) and Robyn Kunzekweguta ("Kunzekweguta") (Zimbabwe, Southern Africa) to Plaintiff's unit.

67. McCone deliberately and selectively placed only employees of African descent under Plaintiff into Unit #53.

68. In crafting Unit #53, McCone racially and discriminatorily segregated Plaintiff and her unit members due to their African ethnicity.

69. Furthermore, on several occasions, McCone and staff in other units and divisions derogatorily referred to Unit #53 as the "African Unit."

70. By way of example, the cases of Intake workers Shannon Jones, Aliyah Williams, and Malikah Pierce were all pushed onto Unit #53 when those employees left or transferred.

71. On or about April 27, 2017, Plaintiff received the Intake Region Honors Certificate for his hard work, dedication, and willingness to assist others in his role.

72. Despite Plaintiff's successful performance of his job functions, he and his fellow members of Unit #53 continued to encounter antagonism with respect to their national origin.

73. On or about September 18, 2017, McCone met with Unit #53 and told them that while they were doing a fine job and were working hard according to Administrator Weston, she needed to remove Osuji to another unit as supervisor in relation to Osuji having made an internal complaint of hostile work environment.

74. When Plaintiff and the other Social Workers of Unit #53 expressed concern and confusion over the decision, McCone became agitated and stated her decision was final whether they liked it or not.

75. The following day on or about September 19, 2017, the members of Unit #53 consulted with their DC 47 Union Representative Cherone Hall ("Hall") to discuss the actions being taken by McCone and grieve their concerns about race and national origin related bias.

76. Later that day, Hall met with McCone and relayed the unit members' concerns to her. Following this meeting and unhappy with the fact that her subordinates submitted their grievances about her to the union, McCone created a retaliatory work environment through actions such as refusing to talk to the members of Unit #53, ignoring their inquiries, and exhibiting anger toward them.

77. Also on or about September 19, 2017, Plaintiff observed a Payroll staffer bringing McCone the overtime slips for Unit #53.

78. When Plaintiff asked the staffer what was going on, she told him that Director McCone had asked to see the entire unit's overtime slips.

79. Soon after the filing of the grievance with the DC 47 Union Representative, on or about October 16, 2017, McCone requested to meet with Plaintiff and his Union Representative Hall.

80. During this meeting, McCone stated that she completed a caseload audit and overtime slips review, observed some issues that discussed with Upper Management and had to dissolve Unit #53.

81. On this day, McCone requested that Plaintiff turn over all of his case files and records and DHS disabled all of his work issued devices.

82. Michelle Sensky (“Sensky”), Human Resources Staff Administrator, reassigned Plaintiff to the 7<sup>th</sup> floor case record room as his temporary reassignment pending the outcome of a disciplinary hearing.

83. Plaintiff believes and avers that McCone instituted an audit of Unit #53 in retaliation for the union grievance and as a means of national origin based discrimination.

84. As a result, Plaintiff filed an EEOC Charge (EEOC No. 530-2018-00278) on or about October 25, 2017 detailing most of the above and alleging race and national origin discrimination and retaliation. Around this time, Osuji filed an EEOC Charge as well.

85. On or about October 27, 2017, mere days after Plaintiff’s filing of an EEOC Charge, McCone officially served him with an Employee Violation Report (“EVR”). The EVR put forth charges of falsification of visits, falsification of overtime, and poor work performance, but he denied the allegations and thus neglected to sign.



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88. At this hearing, Plaintiff presented testimony and evidence that he conducted visits in each of his cases as policy required and that there was never any falsification of overtime or visitations. Concerning the allegation of poor work performance, Plaintiff explained that was overwhelmed with his own cases because he was shouldering the burden of other employees’ cases as well.

89. Plaintiff noted that due to the overload of cases, the delay of inputting notes into the online system was agency wide (visits were supposed to be input into the system within six day period).

90. On or about January 24, 2018, the hearing panel concluded their deliberation and recommended fifteen (15) days’ suspension for Plaintiff.

91. However, on or about March 23, 2018 there was a meeting to review the hearing panel’s decision in the matter.

92. Ultimately, the Commissioner decided to approve the panel’s recommendation to sustain charges and enact a suspension, but the Commissioner went further and amended the panel recommendation to thirty (30) days’ suspension with the intent to dismiss.

93. DHS Management told Plaintiff that March 23, 2018 was to be his last day of work and he had to turn over his ID cards, badge, and agency equipment.

94. Plaintiff believes and avers that Respondent discriminated against him and his Unit #53 coworkers on account of their race and ethnicity, despite their good performance and successful tenure at DHS.

95. He further believes and avers that Respondent and McCone targeted him and Unit #53 for audit because they had engaged in protected activity and filed EEOC Charges and/ or supported each other's complaints and EEOC Charges.

96. Upon information and belief, no other intake unit in the agency got audited around this time.

97. Respondent subjected Plaintiff to a pattern of retaliatory animus and antagonism which culminated in the termination of his employment.

98. Respondent did not give Plaintiff any prior indication that his work performance was poor nor did it follow the progressive discipline policy as required by the agency.

99. Plaintiff thus believes and avers that the reasoning behind his suspension and subsequent termination was pretextual.

100. Furthermore, Plaintiff has since learned that not long after his termination, DHS transferred McCone to the Adoption section.

**COUNT II**  
**DISCHARGE – RETALIATION-DISCRIMINATION-ARISING UNDER TITLE VII OF**  
**THE CIVIL RIGHT ACT OF 1964 BASED ON NATIONAL ORIGIN AND RACE**  
**DICKSON NYESUAH vs. CITY OF PHILADELPHIA**

101. Paragraphs 1 through 100 are incorporated, as if set forth at length.

102. Because of the continued harassment by Weston and McCone and the failure of Defendant to investigate Plaintiff's concerns, on or about May 31, 2018, Plaintiff filed an EEOC Charge on the advice of his union. The EEOC Charge (EEOC No. 530-2018-03413) detailed the above conduct and alleged race and national origin discrimination and retaliation.

103. Once Weston and McCone received notice that Plaintiff had filed an EEOC Charge, which he dual-filed with the Pennsylvania Human Relations Commission (PHRC), the discriminatory conduct and harassment from Weston and McCone intensified.

104. The discriminatory animus also extended to Coleman, Kunzekweguta, and Nyesuah, the social workers of African descent that Plaintiff supervised.

105. On or about October 27, 2017, mere days after Plaintiff's filing of an EEOC Charge, McCone officially served him with an Employee Violation Report ("EVR"). The EVR put forth charges of falsification of visits, falsification of overtime, and poor work performance, but he denied the allegations and thus neglected to sign.

106. This same day, Plaintiff was walking by and overheard McCone bragging to her secretary, "I will get rid of these African people one by one in this section" and laughing about it.

107. DHS held a preliminary hearing for Plaintiff on or about November 14, 2017 and then a formal discipline hearing before a panel on or about January 24, 2018.

108. At this hearing, Plaintiff presented testimony and evidence that he conducted visits in each of his cases as policy required and that there was never any falsification of overtime or visitations. Concerning the allegation of poor work performance, Plaintiff explained that was overwhelmed with his own cases because he was shouldering the burden of other employees' cases as well.

109. Plaintiff noted that due to the overload of cases, the delay of inputting notes into the online system was agency wide (visits were supposed to be input into the system within six day period).

110. On or about January 24, 2018, the hearing panel concluded their deliberation and recommended fifteen (15) days' suspension for Plaintiff.

111. However, on or about March 23, 2018 there was a meeting to review the hearing panel's decision in the matter.

112. Ultimately, the Commissioner decided to approve the panel's recommendation to sustain charges and enact a suspension, but the Commissioner went further and amended the panel recommendation to thirty (30) days' suspension with the intent to dismiss.

113. DHS Management told Plaintiff that March 23, 2018 was to be his last day of work and he had to turn over his ID cards, badge, and agency equipment.

114. Plaintiff believes and avers that Respondent discriminated against him and his Unit #53 coworkers on account of their race and ethnicity, despite their good performance and successful tenure at DHS.

115. He further believes and avers that Respondent and McCone targeted him and Unit #53 for audit because they had engaged in protected activity and filed EEOC Charges and/ or supported each other's complaints and EEOC Charges.

116. Upon information and belief, no other intake unit in the agency got audited around this time.

117. Respondent subjected Plaintiff to a pattern of retaliatory animus and antagonism which culminated in the termination of his employment.

118. Respondent did not give Plaintiff any prior indication that his work performance was poor nor did it follow the progressive discipline policy as required by the agency.

119. Plaintiff thus believes and avers that the reasoning behind his suspension and subsequent termination was pretextual.

120. Furthermore, Plaintiff has since learned that not long after his termination, DHS transferred McCone to the Adoption section.

**COUNT III**  
**DISCHARGE- NATIONAL ORIGIN AND RACE- ARISING UNDER PHRA**  
**VIOLATION OF SECTION 5(D) OF PHRA 43 P.S. 951-963**  
**DICKSON NYESUAH vs. CITY OF PHILADELPHIA**

121. Plaintiff incorporates paragraphs 1 through 120 as if set forth at length.

122. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Nyesuah to discrimination by terminating the Plaintiff's employment based on his race and national origin, constituted a violation of the PHRA.

123. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Nyesuah sustained permanent and irreparable harm, resulting in his termination from employment, which caused him to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

124. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Nyesuah suffered severe emotional distress, embarrassment, humiliation and loss of self-esteem.

**PRAYER FOR RELIEF**

125. Plaintiff incorporates paragraphs 1 through 124 as if set forth at length.

**WHEREFORE**, Plaintiff Nyesuah requests that this Court enter judgment in his favor and against the Defendant, and order that:

A. Defendant compensate Plaintiff Nyesuah with back pay, at a rate of pay and other benefits and emoluments of employment to which he would have been entitled had he not been subjected to unlawful discrimination;

B. Defendant compensate Plaintiff Nyesuah with an award of front pay, if appropriate;

C. Defendant pay to Plaintiff Nyesuah punitive damages, compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other nonpecuniary losses as allowable;

D. Defendant pay to Plaintiff Nyesuah pre and post judgment interest, the costs of suit and attorney and expert witness fees as allowed by law;

E. Defendant shall eliminate all unlawful discriminatory practices as well as remedy the discriminatory effect of past practices and procedures;

F. The Court shall award such other relief as if deemed just and proper, in law and/or equity, including injunctive relief if the Honorable Court deems said relief appropriate.

**JURY DEMAND**

Plaintiff Nyesuah demands trial by jury.

Respectfully submitted,

HARVEY, PENNINGTON LTD.

DATE: June 5, 2019

BY: 

FREDERICK M. WALTON, JR., ESQUIRE  
Attorney for Plaintiff  
Dickson Nyesuah